

REMARKS

Claim Amendments

The Office Action objects to claims 1, 8, and 15 for use of the word: it's. Accordingly, Applicants have in this response amended claims 1, 8, and 15 to recite: its. Applicants respectfully submit that these amendments add no new matter to the present application but rather correct a minor informality for increased clarity of the claim language.

Claims 21-29 are presently added. Claims 21-29 reinstate claims originally filed and previously canceled in this case amended for proper antecedent basis with regard to the independent claims from which they depend. Because claims 21-29 only reinstate originally filed claim limitations, Applicants respectfully submit that claims 21-29 add no new subject matter the present application.

Claim Rejections Under 35 U.S.C. § 101

Claim 8 stands rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Specifically, the Office Action takes the position that claim 8 recites software per se. Applicants have amended claim 8 in this Response to recite:

8. (Currently Amended) A system for controlling devices connected to a network, the system comprising a computer processor, a computer memory operatively coupled to the computer processor, the computer memory having disposed within it computer program instructions capable of:

~~means for~~ sensing, by a transmitting device, characteristics of a user to derive one or more user metrics for the user;

~~means for~~ receiving, by a controller from the transmitting device, at least one user metric for the user including means for receiving at least one metric from a metric sensor worn by the user;

~~means for~~ receiving, by the controller from a network device connected within the network, network device content metadata representing one or more characteristics of content sent over the network to the network device, the content comprising media that varies according to interests of the user, the network device generating a first form of physical output from the content ~~and wherein network device content metadata comprises data embedded within a signal received by the network device;~~

responsive to receiving the user metric and receiving the network device content metadata, ~~means for~~ transmitting, by the controller, a signal to a second network device to change ~~its~~^{its} physical output; and

responsive to the signal, ~~means for~~ generating, by the second network device, a second form of physical output.

Applicants note further in response that the 'system' recited in claim 8 was always intended to refer to a computer system. Applicants clarify this further with the present amendments, including expressly in claim 8 a computer processor and computer memory. Applicants respectfully submit that these amendments add no new matter to the present application and clarify that claim 8 does not recite software per se, rather a computer system capable of controlling devices connected to a network in accordance with embodiments of the present invention. The rejection of claim 8 under 35 U.S.C. § 101 should therefore be withdrawn. Applicants respectfully request reconsideration of claim 8.

Conclusion

Claims 1, 8, and 15 are objected to for minor informalities corrected by amendment in this Response. Claim 8 stands rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter, for reciting software per se. The system of claim 8, as amended in this response, does not recite software per se but rather recites a computer system with computer memory and a computer processor capable of controlling devices connected to a network in accordance with embodiments of the present invention. As such, claim 8 recites patentable subject matter. Applicants respectfully request reconsideration of

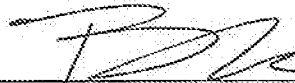
claim 8. Because claim 8 recites patentable subject matter and the Office Action includes no other rejections of any remaining claims in this application, claims 1, 8, and 15, Applicants submit that claims 1, 8, and 15 as currently amended are patentable and respectfully request a notice of allowance of claims 1, 8, and 15. New added claims 21-29 depend from independent claims 1, 8, and 15 and reinstate originally filed and previously canceled claims. Because claims 21-29 include all the limitations of claims 1, 8, and 15 and because claims 1, 8, and 15 are presently allowable, so also are claims 21-29 allowable. Applicants therefore also request that claims 21-29 be allowed.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447 for any fees required or overpaid.

Respectfully submitted,

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